

REMARKS

Claims 1-3, 5-10, and 12-68 are pending in the current application. Claims 1, 8, 38, and 35 are currently amended. Claims 4 and 11 are canceled.

Double Patenting

Claims 35-68 are provisionally rejected on the grounds of non-statutory obviousness-type double patenting as being unpatentable over claims 1, 8, 35, and 38 of co-pending Application No. 10/543,088.

Applicants note the Examiner's position. However, Applicants submit that until either the present application, or one of U.S. Patent Application No. 10/543,088 issues into a patent (as acknowledged by the provisional status of the rejection), this rejection is premature.

Claim Rejections – 35 U.S.C. § 102

Claims 1-4, 8-11 and 15-34 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Hammond et al. (US 6,686,840, hereinafter "Hammond").

Claim 1 has been amended to include the limitations of claim 4. Applicants respectfully submit, Hammond fails to teach each of the elements recited in claim 4 as is required to support a rejection under §102. Claim 1 recites: "shifting the security unit from the on-state mode to a connect mode for connecting the commercial product to the security unit, the shifting occurring when the receiver is impinged upon by a transmitter, wherein the receiver is deactivated when the security unit shifts to the connect mode". In the May 5, 2008 Office Action, the Examiner asserts the aforementioned limitation originally included in claim 4 is taught by Hammond. However, the Examiner does not identify the location of any teaching in Hammond relating to deactivating a receiver.

Further, Hammond teaches a system including a receiver 36 within an alarm housing 32. Hammond teaches that the receiver can receive signals from a transmitter 16 which can transmit various signals based on the state of buttons 18 and 20 (*Hammond*: FIG. 1, col. 2, ln. 56- col. 3, ln. 13). However, Hammond does not teach deactivating the receiver 36 in response to receiving a signal, as claim 1 requires, or under any other circumstance. On the contrary, Hammond teaches an “automatic mode” where transmitter 16 continuously sends range signals to receiver 36 and an alarm is activated if the range signals are not received by receiver 36. Further, Hammond teaches an “alarm mode” where an alarm can be activated in response to transmitter 16 sending a predetermined signal to receiver 36 (*Hammond*: col. 3, ln. 51- col. 4, ln. 2). Both the “automatic” and “alarm” modes require receiver 36 to be in constant operation in order to function properly. Accordingly, not only does Hammond fail to teach deactivating the receiver 36 in a connect mode, as claim 1 requires, or any other mode, Hammond specifically teaches away from deactivating receiver 36 by requiring the operation of receiver 36 for the proper functioning of the “automatic” and “alarm” modes. For at least these reasons, Hammond fails to teach of the elements in claim 1 as is required to support a rejection under §102.

Further, claim 8 has been amended and has limitations at least somewhat similar to those of claim 1. Accordingly, Hammond likewise fail to teach each of the elements in claim 8, as is required to support a rejection under §102, at least by virtue of its similarity to claim 1.

Additionally, claim 3 depends from claim 1; and claims 9-11 and 15-34 depend from claim 8. Accordingly, at least by virtue of their dependency from claims 1 and 8, Hammond likewise fails to teach each of the elements in any of claims 3, 9-11 and 15-34 as is required to support a rejection under §102.

Therefore, Applicants respectfully request the rejection of claim 1-4, 8-11 and 15-34 under 35 U.S.C §102 be withdrawn.

Claims 35-37, 39, 41-44, 52-58, 61, and 63-68 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Chidley et al. (US 5,245,317, hereinafter “Chidley”).

Applicants respectfully submit Chidley fails to teach each of the elements recited in claim 35 as is required to support a rejection under §102. Claim 35 recites: “a security unit including an on-state mode in which a receiver housed in the security unit is activated, and a connect mode in which the receiver is deactivated, wherein the security unit is placed in the on-state mode when it is switched on”. Chidley fails to teach this limitation. On the contrary, Chidley teaches, in a passage reference by the Examiner on page 5 of the May 5, 2008 Office Action, col. 6, lines 11-39, a tag 14 including a receiver 60 which is in a disabled or “dead” state upon “power up” of the tag 14. Accordingly, in addition to failing to teach “a security unit including an on-state mode in which a **receiver** housed in the security unit **is activated**” where “the security unit is placed in the on-state mode **when it is switched on**”, as claim 35 requires, Chidley specifically teaches away from receiver 60 being activated when the tag 14 is switched on by requiring that receiver 60 is in a disabled state when tag 14 is “powered on”. For at least these reasons, Chidley fails to teach of the elements in claim 35 as is required to support a rejection under §102.

Further, claims 36, 37, 41-44, 52-58, 61, and 63-68 depend from claim 35. Accordingly, Chidley fails to teach of the elements in any of claims 36, 37, 41-44, 52-58, 61, and 63-68 as is required to support a rejection under §102.

Additionally, claim 39 depends from claim 38, and, as the Examiner admits on page 7 of the May 5, 2008 Office Action, Chidley fails to teach each of the elements in claim 38. Accordingly, Chidley fails to teach each of the elements in claim 39 as is required to support a rejection under §102.

Therefore, Applicants respectfully request the rejection of claim 35, 36, 37, 39, 41-44, 52-58, 61, and 63-68 under 35 U.S.C §102 be withdrawn.

Claim Rejections – 35 U.S.C. § 103

Claims 6 and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hammond in view of Chidley.

The deficiencies of Hammond are discussed above and are relevant here because claim 6 depends from claim 1, and claim 13 depends from claim 8. For the reasons stated above, Hammond fails to teach each of the limitations in either of claims 1 and 8. Chidley fails to remedy these deficiencies. Accordingly, at least in view of their dependency from claims 1 and 8, neither Hammond nor Chidley, alone or in combination, teach each of the limitations in either of claims 6 and 13 as is required to support a rejection under §103.

Therefore, Applicants respectfully request the rejection of claims 6 and 13 under 35 U.S.C. § 103 be withdrawn.

Claims 38, 40, 45, 49-51, 59-60 and 62 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Chidley in view of D'Angelo et al. (US 6,133,830, hereinafter "D'Angelo").

The deficiencies of Chidley are discussed above and are relevant here as well because claim 38 contains limitations at least somewhat similar to claim 35. For the reasons stated above, Chidley fails to teach each of the limitations of claim 35. D'Angelo fails to remedy this deficiency. Accordingly, at least by virtue of its similarity to claim 35, neither Chidley nor D'Angelo, alone or in combination, teach each of the limitations in claim 38 as is required to support a rejection under §103.

Further, claims 45, 49-51, 59-60 and 62 depend from claim 35; and claim 40 depends from claim 38. Consequently, at least by virtue of their dependence from claim 35 and 38, neither Chidley, nor D'Angelo, alone or in combination teach each of the limitations in any of claims 38, 40, 45, 49-51, 59-60 and 62 as is required to support a rejection under §103.

Therefore, Applicants respectfully request the rejection of claims 38, 40, 45, 49-51, 59-60 and 62 under 35 U.S.C. § 103 be withdrawn.

Claim 46 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Chidley in view of Soleimani (US 4,804,943, hereinafter "Soleimani").

The deficiencies of Chidley are discussed above and are relevant here as well because claim 46 depends from claim 35. For the reasons stated above, Chidley fails to teach each of the limitations of claim 35. Soleimani fails to remedy this deficiency. Accordingly, at least by virtue of its dependence from claim 35, neither Chidley nor D'Angelo, alone or in combination, teach each of the limitations in claim 46 as is required to support a rejection under §103.

Therefore, Applicants respectfully request the rejection of claim 46 under 35 U.S.C. §103 be withdrawn.

Allowable Subject Matter

Applicants note with appreciation the Examiner's indication that claims 5, 7, 12 and 14 contain allowable subject matter.

CONCLUSION

Accordingly, in view of the above amendments and remarks, reconsideration of the objections and rejections and allowance of each of claims 1-4, 6, 8-11, 13, and 15-68 in connection with the present application is earnestly solicited.


Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Donald J. Daley at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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